

EXHIBIT 33

1 Volume I

Pages: 1 - 242

2 Exhibits: 1 - 27

3 UNITED STATES DISTRICT COURT

4 DISTRICT OF MASSACHUSETTS

5 No. 04-CV-11948-RGS

6 SEYED MOHSEN HOSSEINI-SEDEHY,

7 Plaintiff

8 vs.

9 ERIN T. WITHINGTON and the CITY

10 OF BOSTON,

11 Defendants

12
13 DEPOSITION OF ERIN T. WITHINGTON

14 Thursday, March 31, 2005

15 10:00 a.m. - 4:32 p.m.

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24 Reporter: Cynthia C. Henderson/RPR

54 (Pages 210 to 213)

Erin T. Withington - March 31, 2005

<p>210</p> <p>1 A. I told him he was under arrest for indecent 2 assault and battery on a person. 3 Q. You never told him who made the 4 allegations? 5 A. No. We didn't have any conversation that 6 day. 7 Q. So to this day you never told 8 Mr. Hosseini who the person is that alleged that he 9 committed the sexual assault that was the basis for 10 your warrant. Isn't that true? 11 A. I don't know whether I did or not. 12 Q. Why didn't you? 13 MS. AMBARIK: Objection. She said she 14 didn't know. 15 MS. BUTLER: Well, I want to probe. 16 MS. AMBARIK: You just asked her the 17 question. You can't ask her the followup question 18 as to why she doesn't know. 19 MR. BUTLER: I can. 20 Q. Why didn't you tell Mr. Hosseini that it 21 was Bavis that made the allegation? 22 A. I don't know that I didn't tell him that it 23 wasn't him. 24 Q. Well, it's not in the report; correct?</p>	<p>212</p> <p>1 recall having that conversation? 2 THE WITNESS: I don't recall having a 3 conversation with his attorney. 4 MS. AMBARIK: That was your prior 5 testimony. 6 Q. And this report, Exhibit 23, that has the 7 date assigned 3/22/2004, no place there you mention 8 that you were going to refer this matter to the 9 District Attorney; correct? 10 A. No. It's not mentioned in there, no. 11 (Update on Mohsen Hosseini's 12 arrest marked Exhibit No. 24 for 13 identification.) 14 Q. Now, Exhibit No. 24, what is this report? 15 A. This is an update about Mr. Hosseini's 16 arrest and stating that I had had conversation with 17 him prior to the arrest in my office on 3/4, and I 18 told him to leave the victim alone. 19 I received a call that morning from the victim 20 stating that Mr. Hosseini was still touching his 21 buttocks and rubbing against him after the 22 conversation with myself. 23 Q. Now, you indicated that no statement was 24 taken from Mr. Hosseini when he was arrested because</p>
<p>211</p> <p>1 A. Just because it's not here doesn't mean I 2 didn't tell him. 3 Q. You didn't testify to it at any point 4 today, did you? 5 A. Not that I know of, no, not that I 6 remember. 7 Q. You have no reason to believe that you told 8 Mr. Hosseini that Bavis had been the one making the 9 allegations, do you? 10 MS. AMBARIK: Objection. 11 A. I don't know if I told Mr. Hosseini or not, 12 but it's not like everybody else didn't know because 13 Mr. Perry knew and he was on the phone, so I am 14 assuming at some point Mr. Hosseini must have known. 15 Q. Well, you got a call three days after the 16 arrest from the lawyer asking who the complainant 17 was and you said it was two guys and only one was 18 going to be the name in the complaint; right? 19 A. That part, that's true; so I must have had 20 that conversation, yes. 21 Q. But even over the phone you didn't give the 22 names because they were privileged, according to 23 you? 24 MS. AMBARIK: Objection. Do you</p>	<p>213</p> <p>1 you had a prior conversation with him in your office 2 on March 4; correct? 3 A. Yes. 4 Q. But you also indicated that you had and 5 today in your testimony you indicated that you had 6 received calls from Bavis alleging that there was an 7 indecent assault and battery that had occurred after 8 March 4th; correct? 9 A. Yes. 10 Q. And why didn't you talk with 11 Mr. Hosseini about those allegations even after you 12 had him arrested? 13 A. Because at that point he was under arrest 14 for the indecent assault and battery. We had 15 already had conversation regarding that, so I chose 16 not to have any conversation with him. 17 Q. Did anything prohibit you from talking to 18 him on that day after you had arrested him and he 19 was booked at District 4? 20 A. No. 21 Q. And this last line that you received a call 22 that morning, referring to March 22nd, 2004, from 23 the victim stating Mr. Hosseini was still touching 24 his buttocks and rubbing against him after the</p>